

REMARKS

Reconsideration of this application as amended is requested.

In the Office Action of July 21, 2004, the Examiner rejected claims 1 and 2, allowed claims 4-7, and indicated that "[c]laim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in [the] Office Action and to include all of the limitations of the base claim and any intervening claims."

Claims 1 and 2 have been cancelled. Claim 3 has been amended to now be in independent form, and now includes all limitations of base claim 1 from which it originally depended. No claims have been added, and the only amendment to the claims is to cancel all rejected claims and place formerly-dependent claim 3 into independent form. The Office Action did not state any rejection under 35 U.S.C. § 112, second paragraph (or any other paragraph of 35 U.S.C. § 112), for claim 3 or for any other claim in this case, and Applicant is unaware of any rejection of any claim under 35 U.S.C. § 112, second paragraph, so Applicant respectfully believes that the Examiner may be mistaken that claim 3 (or any other claim) was or should have been rejected in this Office Action under 35 U.S.C. § 112, second paragraph. If there still should happen to be some informality with claim 3 that is of concern to the Examiner under 35 U.S.C. § 112, second paragraph, then Applicant's undersigned attorney respectfully requests a telephone call from the Examiner so that the matter may be discussed and resolved by Examiner's Amendment.

In a telephone conference initiated by the Examiner on July 19, 2004, the Examiner stated his position, repeated in this Office Action, that the Application contained claims directed to the following patentably-distinct species of the claimed invention:

Group I: The embodiment of Figs. 1-10B;

Group II: The embodiment of Figs. 11-16; and

Group III: The embodiment of Figs. 17-20.

A provisional election was made without traverse to prosecute Group III, the

1 embodiment shown in Figures 11-16 and claimed in claims 1-7, and that provisional election
2 without traverse is hereby confirmed.

3 However, as noted to the Examiner in that telephone conference, all claims are
4 generic to all three embodiments. Because all claims now of record are in condition for
5 allowance, and because all claims of record are generic to all three embodiments, Applicant
6 is now entitled to consideration of the other two previously-unelected embodiments of
7 Groups I and II.

8 The Examiner's Office Action did not provide a Notice from the Official
9 Draftsperson (Form PTO-948) indicating whether the 20 sheets of substitute formal drawings
10 that were filed on February 6, 2004, via Certificate of Mailing together with the Response to
11 the Notice to File Missing Parts, were acceptable as formal drawings. Provided herewith as
12 Exhibit A is an enlarged photocopy of the itemized return receipt postcard for that
13 submission with the date stamp of the U.S.P.T.O. Mail Room thereon, providing *prima facie*
14 proof that those 20 sheets of substitute formal drawings were received by the Mail Room of
15 the U.S.P.T.O. Applicant respectfully believes that those 20 sheets of substitute formal
16 drawings are in proper form for acceptance as formal drawings. However, if the Official
17 Draftsperson should happen to have an objection to one or more of those 20 sheets of
18 substitute formal drawings, or if some or all of those 20 sheets of substitute formal drawings
19 have become lost or misplaced subsequent to their receipt by the Mail Room of the
20 U.S.P.T.O., then Applicant respectfully requests that the filing of any new formal drawing
21 sheets be delayed until receipt of a Notice of Allowability pursuant to 37 C.F.R. § 1.85(c),
22 and that the drawings as filed be used during examination of this application until such time
23 as the Examiner may request another set of substitute formal drawings. If another set of
24 substitute formal drawings is believed necessary, Applicant respectfully requests early
25 notification of same so that their preparation does not delay issuance of the Letters Patent or,
26 in the alternative, that a PTO-948 be sent with the next Office Action indicating the

1 acceptability of the 20 sheets of substitute formal drawings filed with the Response to the
2 Notice to File Missing Parts.

3 In conclusion, it is respectfully submitted that the present application and all of its
4 claims are now in condition for allowance for the reasons previously discussed. All the
5 references cited by the Examiner have been reviewed and considered but are not felt to come
6 within the coverage of the claims now in this case, nor are they felt to disclose or suggest
7 Applicant's invention as specifically defined by applicant's claims. If the Examiner is of the
8 opinion that a telephone conference relative to this case would advance the prosecution, the
9 Examiner is respectfully requested to call the undersigned at the indicated phone number.

10 No fees should be required for the filing of this Amendment. However, if any fees
11 are required for the filing of this amendment or the papers filed concurrently herewith, please
12 charge such additional fees or credit any overpayment to Deposit Account 23-0125.

13 Formal favorable action and issuance of a timely Notice of Allowance is respectfully
14 requested.

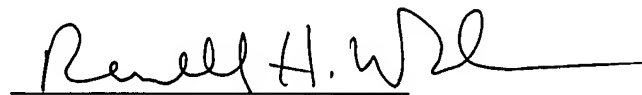
15 Respectfully submitted,

16 PneuTools, Incorporated
17 Assignee

18 Date:

8/12/2004

By:



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Attachment



Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

File No.: A2,062 Date: 2/6/04

Dear Sir: Kindly acknowledge receipt of ~~the~~ enclosed Response (2 pages); copy of Notice to File Missing Parts (2 pages); Declaration (1 page) with ADS (3 pages); Power of Attorney (1 page); Information Disclosure Statement by Applicant (1 page); Statement under 37 C.F.R. 3.73(b) (1 page) with copy of Assignment (3 pages); 20 sheets of formal drawings; check for \$505.00; and Fee Transmittal Form by affixing your date stamp hereon and returning this card to me.

Applicant: Frederick W. Lamb

Assignee: PneuTools, Incorporated

Appl. No.: 10/635,861

Filed: August 5, 2003

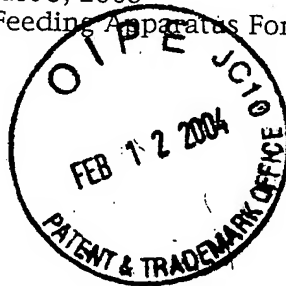
For: Cap Feeding Apparatus For A Fastener Gun

Confirmation No.: 8549

Examiner:

Art Unit: 3679

Docket No.: A2,062



Yours very truly,

Russell H. Walker